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SUBJECT: KILLINGS OF GARMENT BUSINESSMEN RECALL DISPUTE
WITH UNION

11. (SBU) Summary: Although there are no indications of union involvement, the January 21 killings of two representatives of a garment factory (Industria Textil Choishin, S.A.) highlighted tension between management and a workers union (SitraChoi). Through November of last year, Choishin and SitraChoi had been involved in an ongoing legal dispute over the union's claim that the company illegally closed in July 2008 and subsequently refused to pay workers their full severance. It remains unclear whether the killings resulted from lingering discontent by workers forced out of economic necessity to accept what they viewed as an unjust compensation or was a common crime as the press reported. End Summary.

Killing of Garment Factory Businessmen

12. (U) On January 21, after receiving an anonymous phone tip, first responders located the bodies of Korean businessmen You Chang Okey and Kim Dong Ha in a shallow grave on the property of their garment factory, Industria Textil Choishin, S.A., in the high crime area of Villa Nueva on the outskirts of Guatemala City. The businessmen had been missing for three days. Their bodies had been burned and, according to the Public Ministry, buried less than 24 hours before they were discovered. Later that day, police arrested and charged five private security agents who worked for the factory with the double homicide. The arrests came after police discovered computer equipment and other materials that belonged to the company in the homes of the accused.

13. (SBU) The killings occurred in the aftermath of tension between Choishin and the workers' union SitraChoi. SitraChoi had accused the company of illegally closing in July 2008 and failing to pay employees their full severance required under Guatemala's labor law. Press reports of the Public Ministry's (Attorney General) investigation did not mention union involvement in the killings and AFL-CIO Solidarity Center Central America Representative Rob Wayss told poloff that he had no reason to believe that any SitraChoi members were involved.

Company Blames Low Worker Productivity for Closure

14. (SBU) You and Kim were the legal representative and human resources manager respectively for Industria Textil Choishin, a multinational textile company with headquarters in South Korea. The company produced textiles for the well-known brands Liz Claiborne, Macy's Federation, and Ralph Lauren Polo and exported a majority of its products to the United States. In a meeting with poloff in September 2008, You estimated that the company lost \$1.6 million in 2007 and \$1 million in the first six months of 2008. He blamed the company's losses on low worker productivity, especially among union members whom he felt the law protected against

justified dismissals. He said the downturn in the U.S. economy was not a significant factor in the company's losses.

¶15. (SBU) The losses forced the company to close on July 18, 2008, according to You. According to Kim, Choishin could only afford to pay its employees 52 percent of their severance. However, representatives of SitraChoi and Vice Minister of Labor Mario Illescas believed that Choishin could have paid all employees their full severance. (Note: Illescas and SitraChoi did not have access to Choishin financial statements and we do not know how they arrived at this conclusion. End note.) Illescas and Roberto Gatica, Deputy Director of the Labor Inspectorate, confirmed to poloff that 602 of the company's 792 workers accepted Choishin's offer of 52 percent severance in July shortly after the closing while the remaining 190 employees sued the company for the full 100 percent. The company paid a total amount of almost 3.5 million quetzales (USD 449,000) to the 602 workers.

¶16. (SBU) Kim told poloff in September 2008 that Choishin had reached a mutual agreement with the 602 employees to provide a 52 percent severance and while it was a "sad reality" that economic necessity may have forced some employees to accept less than 100 percent, the company did not violate Guatemala's labor laws given the mutual agreement that it had signed with workers. Both You and Kim stated that they continued to visit Choishin's factory daily in order to be available should the remaining 190 employees decide to accept the 52 percent severance.

¶17. (SBU) In the ensuing months, an additional 80 employees accepted the company's offer of 52 percent severance out of economic necessity and fear that if they did not accept, they would risk not receiving any financial compensation from the company, according to Shený Godinez, Coordinator for the Food, Agro-Industrial and Allied Workers Union (FESTRAS). By mid-October, according to Godinez, Choishin offered one-hundred percent severance to the remaining 110 employees, an offer that 104 of the employees accepted. The remaining six employees, who comprised SitraChoi's executive committee, did not initially accept the offer and demanded that the company reopen and offer former employees their previous jobs. According to Godinez, by mid-November the six executive committee members had accepted the 100 percent severance after allegedly receiving anonymous death threats and also out of fear that the longer they waited, the greater the possibility that they would not get anything at all from the company. According to Godinez, Choishin provided the money for these six employees to the judiciary, but due to a prolonged legal process the employees had not received their severance to date.

¶18. (U) According to Alejandro Ceballos, President of the Board of Directors of the Guatemalan Apparel and Textile Industry Commission (Vestex), apparel exports to the U.S. fell by 3.89 percent in 2008 and a total of 14 garment factories closed their Guatemalan operations, resulting in the loss of 8,000 jobs. Ceballos also stated that exports in January 2009 were 31 percent lower than in January 2008. He cited the global financial crisis and resulting decreased consumer demand in the U.S. as the primary reasons for these losses. Guatemalan textile exports have also suffered due to increased competition from Asian producers.

Union Argues Company's Closure Illegal

¶19. (SBU) SitraChoi had a membership of between 150 and 180 employees. According to SitraChoi representatives, the company had failed to give the majority of its workers their rightful severance and the union doubted the company's claims that it did not have adequate resources to pay the full amount.

¶10. (SBU) SitraChoi representatives claimed that Choishin had

not presented to the Ministry of Labor (MOL) or the presiding labor judge documentation to prove that it could not pay the full severance, as requested by the labor judge. Choishin's legal representative You stated that the company did not have an obligation to present its financial documents to the MOL and claimed that the presiding labor judge had not requested these documents. SitraChoi representatives further accused Choishin of illegally closing with a plan to reopen under a different name in an attempt to avoid having to recognize the existing union. Union representatives also suggested that the MOL may have colluded with the company to take advantage of the workers by providing Choishin with information on how to avoid paying workers their full severance, a sentiment echoed by Wayss.

Ministry of Labor as Mediator

¶11. (SBU) According to Illescas and Gatica, the MOL served as mediator between Choishin and its former employees. Illescas stated that Choishin had not complied with all of Guatemala's labor laws and that the MOL had been investigating the company to assess fines for non-compliance. According to Illescas, the MOL had encouraged the workers to bring legal action against Choishin so that a labor judge could hear the workers' grievances. However, Choishin employees voluntarily chose to sign a consensual agreement with the company and the MOL did not have the authority to force the workers not to accept the offer.

¶12. (SBU) Illescas explained that the MOL also could not intervene in the legal process between the company and the workers who chose not to accept Choishin's proposal. Once the case was brought before a judge, the MOL's role as mediator ended. Illescas also stated that workers who had accepted the agreement with Choishin could still bring a legal case against the company requesting that the judge adjust the compensation that they had already received.

Comment

¶13. (SBU) Although press reports suggest robbery as the motive of the killings and press reports of the Public Ministry's investigation do not indicate union involvement, the murders occurred in the highly charged atmosphere of the

dispute between management and the union.
McFarland